

the new toll free SAC. In addition, fraudulent advertising or use by assignees of 7-digit vanity numbers in the new toll free SAC can be reduced through the enforcement of strict Commission rules prohibiting brokering.

Third, it is difficult to reconcile the concept of toll free codes as a public resource with the idea that certain entities (*i.e.*, competitors to an 800 number assignee) should be barred from using the equivalent 7-digit number in other toll free SACs. Adoption of the proposal at issue here may be (wrongly) viewed as giving the incumbent 800 number assignee some limited rights over a public resource even though the Commission and service providers have emphasized that use of numbers does not confer ownership.¹²

V. ADMINISTRATION OF THE SMS

The Commission has sought comment on whether DSMI should continue to administer the toll free databases (§49). Sprint believes that administration of the SMS should be turned over to a neutral entity which is unaffiliated with any particular telecommunications service provider or industry segment. Selection of a neutral SMS administrator is consistent with the Commission's recent decision to turn over administration of the North American Numbering Plan (NANP) to a neutral third party.¹³ As

¹² See, *e.g.*, *Administration of the North American Numbering Plan*, CC Docket No. 92-237, Report and Order released July 13, 1995 (FCC 95-283) ("NANP Order"), ¶4, citing Radio Common Carrier Service, Appendix B, Commission Policy Statement, 59 Rad. Reg. 2d (P&F) 1275, 1284 (1986); see also, *Industry Guidelines*, §2.2.1.

¹³ NANP Order, ¶57.

the Commission found in that proceeding, "...it would be very difficult, if not impossible for a NANP Administrator closely associated with a particular segment of the telecommunications industry to be impartial. Even if a NANP Administrator aligned with a particular industry segment was impartial, there would still likely be the perception and accusations that it was not" (*id.*).

The Commission's reasoning applies equally to administration of the toll free database. So long as the SMS is owned and managed by one industry segment (DSMI is controlled by the RBOCs), there remains the real risk of discriminatory or anticompetitive behavior. For example, the RBOC owners of the SMS continue to make decisions about prioritization of SMS upgrade projects, and serious questions have been raised about whether the RBOCs have given sufficient weight to the upgrades requested by IXCs. Furthermore, there are concerns about whether the RBOCs may have access to competitively sensitive or proprietary data associated with SMS use by other toll free service providers. If RBOC entry in the interexchange business becomes a reality, their control over the crucial database bottleneck facility and their access to competitively sensitive data become matters of even graver concern.

Concerns about RBOC access to other parties' competitively sensitive information are neither overblown nor speculative. As noted above, the industry has decided to temporarily set aside the 7-digit vanity numbers which current 800 number assignees have indicated they would like to replicate. At a recent OBF

meeting, DSMI was specifically requested to treat each Resp Org's list of replicated numbers as proprietary and highly confidential. DSMI declined to do so, stating that the RBOC SMS management team (SMT) had insisted that it had the right to access Resp Org-specific replication lists. There is absolutely no legitimate reason to allow the RBOCs to have access to this information, and indeed, allowing such access is contrary to the Commission's earlier directives regarding protection of confidential, Resp Org-specific information.¹⁴ If the SMT persists in its demand for access to replication lists on a Resp Org-specific basis, the Commission should direct DSMI to withhold such access and to treat this information as proprietary. The Commission should also require DSMI to certify that it has kept this information confidential and has not shared it with the SMT.

Sprint recognizes that Bellcore and DSMI are the repositories of significant (although not unique) talent and technical knowledge. However, their close affiliation with the RBOCs should preclude their continuing management of a system as critical to the provision of toll free service as the SMS.

VI. OTHER ISSUES

The Commission has sought comment on several other issues, including a proposal for a circuit breaker model; assignment of 8XX-555-1212 for directory assistance; and on-going consumer edu-

¹⁴ For example, in the letter from the Chief of the Common Carrier Bureau to the President of DSMI dated August 17, 1995, p. 4, DSMI was instructed to treat Resp Org-specific allocation information "as confidential and not...share with any RespOrg information contained in the attached spreadsheet unless it relates to that RespOrg's weekly allocation of 800 numbers."

cation efforts. Sprint also requests that the Commission address another issue -- the refusal of some Resp Orgs to port toll free numbers when the assignee of those numbers has a balance due. Each of these issues is discussed briefly below.

A. Circuit Breaker Model

The Commission has tentatively concluded that a circuit breaker rule for toll free numbers would serve the public interest (§52). Under this rule, once a trigger date is reached, a weekly consumption rate equal to the weekly average quantity of numbers obtained for the previous twelve months would be established for each Resp Org (§53). Another version of this rule would apply to the day-to-day operation of the SMS, and would limit a Resp Org's consumption of toll free numbers to three times its average consumption for the five highest consumption days in the previous month (§54).

Sprint opposes the circuit breaker model because it places undue emphasis on historical market share, and therefore penalizes new entrants and rapidly growing Resp Orgs. In addition, the trigger could prevent a Resp Org which has just won a very large new customer from obtaining the toll free codes which the customer has requested.

B. Toll free directory assistance

Sprint agrees that 888-555-1212 should be used for toll free directory assistance (§48). The 7-digit number is widely recognized as being affiliated with toll free DA and whatever entity

obtains this number should commit to using it to provide toll free DA.

C. Public awareness efforts

Sprint agrees that efforts to improve public awareness of new toll free codes should continue (§50). Education campaigns are individual business decisions, and their form and financing should be left up to individual toll free service providers. Commission-issued advisories and consumer fact sheets would also be helpful at educating the public about the introduction of new toll free codes.

D. Porting Toll Free Numbers When There is A Balance Due

There is no dispute that toll free number portability is in the public interest. Nonetheless, many Resp Orgs have adopted a policy of refusing to port numbers so long as the current assignee has a balance due associated with the number it wishes to port. This practice impedes number portability and affects the efficient use of toll free codes. Therefore, Sprint requests that the Commission address this issue in the instant proceeding.

Resp Orgs which engage in this practice apparently do so as a means of protecting themselves against nonpayment of bills. Sprint agrees that service providers have every right to collect payment from their subscribers for legitimately incurred toll free service charges. However, refusing to port the number is not the appropriate mechanism to secure payment. It is the carrier's responsibility to protect itself against potentially delinquent accounts (e.g., by performing a credit check on or by requiring a deposit from new customers). The incumbent carrier

should not be allowed to hold the customer hostage until the "delinquency" is resolved. In most other situations, a service provider is not able to prevent a customer from doing business with a competitor because of alleged payment problems. Moreover, many service providers bill their subscribers in arrears. Under such a billing system, assuming that the subscriber does not want to experience an interruption in service, it is not clear how a customer could ever switch to a new service provider without appearing to be "delinquent." And, refusing to port a number when there is a balance due does not even ensure payment, since the new Resp Org can request that the NASC administrator implement the change.¹⁵

Refusal to port a toll free number because of alleged non-payment of bills is contrary to the public interest, and the Commission should prohibit this practice.

VII. CONCLUSION

The instant proceeding covers many crucial aspects of the provision and use of toll free service. Many of the suggestions in the NPRM hold promise of encouraging the efficient use and allocation of toll free codes and should be adopted. These proposals include limiting the quantity of numbers a Resp Org may reserve; shortening certain lag times; continuing the first come,

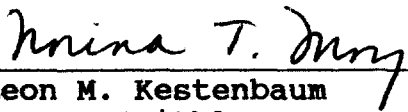
¹⁵ However, there is a \$31.00 charge for each toll free number changed by the NASC. Forcing the new resp org to go to the NASC because the existing resp org refuses to port a number unnecessarily increases the cost of service for the new resp org, and delays the date on which the customer can begin receiving toll free service with the new service provider.

first served allocation system; requiring toll free service subscribers to have adequate facilities in place to accommodate the toll free numbers they have obtained; codifying industry guidelines regarding use of toll free numbers; and turning over administration of the toll free database to a neutral entity.

Other proposals (in particular, those relating to use of escrow deposits, handicaps on MGI users, and barring competitors of current 800 vanity numbers from obtaining the equivalent number in the new toll free code) are cumbersome to implement or are otherwise contrary to the public interest. These proposals should not be implemented.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Joan A. Hesler, hereby certify that on this 1st day of November, 1995, a true copy of the foregoing "Comments of Sprint Corporation", was served first class mail, postage prepaid, or hand delivered, upon each of the parties listed below.


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